

Senate Bill No. 813

Passed the Senate September 12, 2009

Secretary of the Senate

Passed the Assembly September 11, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 50517.12, 50650.8, 50862.6, and 50896.4 to the Health and Safety Code, relating to community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 813, Kehoe. Community development: deferred payment future value loan programs.

Under existing law, there are programs providing assistance for, among other things, multifamily housing, emergency housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time home buyers administered by the Department of Housing and Community Development. The Joe Serna, Jr. Farmworker Housing Grant Program provides grants and loans for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing to address and remedy the impacts of displacement of farmworker families. The CalHome Program provides grants and loans to enable low- and very low income households to become or remain homeowners. The Building Equity and Growth in Neighborhoods (BEGIN) Program is established to make grants and loans to be used for downpayment assistance to qualifying first-time home buyers of low- and moderate-incomes purchasing newly constructed homes in a BEGIN project. Existing federal law establishes the HOME Investment Partnership Act, which allocated funds to states and local governments to eligible states to, among other things, expand the supply of affordable housing. The department is the state agency responsible for the state's allocation of HOME funds.

This bill would make legislative findings and declarations relating to the securitization of second mortgage loans with funds made available by the department. The bill would authorize, for the purposes of each of the above programs, a grant or loan for an individual household to include a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied, as specified. The bill would require the department to implement its provisions through guidelines exempt from a specified provision of existing law.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Many first-time homeowners have been challenged by a combination of costs of land purchased before current market conditions arose, low appraised values of proposed homes due to foreclosures and related economic conditions, and the costs of land, government fees, and construction.

(b) These potential homeowners are eligible for financial assistance under the Joe Serna, Jr. Farmworker Housing Grant, CalHome, Building Equity and Growth in Neighborhoods (BEGIN), and HOME programs administered by the Department of Housing and Community Development.

(c) As a result of current market conditions, financing to pay all costs often exceeds the depressed level of current home values. Therefore, neither adequate construction lending nor sufficient permanent financing can be obtained.

(d) Authorizing an alternative but financially sound means of securing second mortgage loans made with funds available through the Department of Housing and Community Development would provide housing for hard-working households and low- and moderate-income first-time home buyers, stimulate the construction labor and materials industry, and improve neighborhoods and areas with empty lots.

(e) An alternative unconventional means of securing loans by utilizing future increases in value when market conditions stabilize may be employed for up to four years in order to allow for orderly resumption and continuation of these first-time homeowner programs.

SEC. 2. Section 50517.12 is added to the Health and Safety Code, to read:

50517.12. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009, may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be

payable only from the increase in the home value, calculated as the difference between the following:

(1) The appraised value at the time that the loan made pursuant to this chapter is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) All of the following shall apply to the deferred payment future value loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the Joe Serna, Jr. loan is made to the buyer.

(2) The amount shall not exceed the difference between the total development cost of the home as approved by the department and the appraised value of the home at the time of the original sale.

(3) If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.

(4) The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both the deferred payment future value loan authorized by this section and grants or loans otherwise authorized by this chapter. However, the latter grants or loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 3. Section 50650.8 is added to the Health and Safety Code, to read:

50650.8. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009, may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's value, calculated as the difference between the following:

(1) The appraised value at the time that the CalHome loan is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) Both of the following shall apply to the deferred payment future value loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the CalHome loan is made to the buyer.

(2) The amount shall not exceed the difference between the total development cost of the home as approved by the department and the appraised value of the home at the time of the original sale.

(3) If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.

(4) The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve the deferred payment future value loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 4. Section 50862.6 is added to the Health and Safety Code, to read:

50862.6. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009, may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's value, calculated as the difference between the following:

(1) The appraised value at the time that the BEGIN loan is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) All of the following shall apply to the deferred payment future value loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the BEGIN loan is made to the buyer.

(2) The amount shall not exceed the difference between the total development cost of the home as approved by the department and the appraised value of the home at the time of the original sale.

(3) If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.

(4) The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both deferred payment future value loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 5. Section 50896.4 is added to the Health and Safety Code, to read:

50896.4. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009, may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's value, calculated as the difference between the following:

(1) The appraised value at the time that the HOME loan is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) All of the following shall apply to the deferred payment future value loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the HOME loan is made to the buyer.

(2) The amount shall not exceed the difference between the total development cost of the home as approved by the department and the appraised value at the time of the original sale.

(3) If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.

(4) The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both the deferred payment future value loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 6. The Department of Housing and Community Development shall implement Sections 2, 3, 4, and 5 of this act through guidelines that shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code, following at least one consultation with the grantees and housing sponsors. In developing these guidelines and related transactional documents and implementing the programs in Sections 2, 3, 4, and 5 of this act, the department may require concessions and writedowns by the developer or local government.

Approved _____, 2009

Governor